

ENCINO-TARZANA REGIONAL MEDICAL CENTER

JUDICIAL REVIEW HEARING

**CERTIFIED COPY**

In the Matter of )  
 )  
GIL N. MILEIKOWSKY, M.D. )  
 )  
\_\_\_\_\_ )

VOLUME XIV  
(Pages 1649 - 1811)

Encino-Tarzana Regional Medical Center  
18321 Clark Street  
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## I N D E X

(Procedural Matters contained in  
separate Confidential Volume.)

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
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FOR THE MEC				
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Dori DiNapoli, R.N.	1655	1686	1766	1795
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			1803	1807
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Examination by Dr. Fleisher - pages 1774, 1791

Examination by Dr. Brooks - pages 1777, 1793

Examination by Dr. Miyashita - pages 1782, 1791

Examination by Dr. Nassoura - pages 1784, 1792

Examination by Dr. Pleet - pages 1785, 1794

Examination by Dr. Persky - page 1787

Examination by Dr. Ballin - page 1789

1 count, so I'm only going by what the primary nurse had  
2 documented, and she had documented 10 attempts.

3 Q On the bottom of page 126-1 --

4 A Yes.

5 Q -- could you read that area starting where it  
6 says 0020.

7 A 0020. Attempted vacuum three times --

8 It's difficult to read.

9 Attempted vacuum externally three times. FSE  
10 came off. He applied toco --

11 I can't really read it.

12 Phono applied to check heart tones.

13 .The external monitor was applied to check heart  
14 tones. Fetal heart tones were, it looks like 90 to 80.

15 Dr. Mileikowsky was informed that according to  
16 policy, he can only attempt vacuum extraction times  
17 three. In spite of that, he continued to attempt  
18 several times, off and on intervals --

19 I'm having a difficult time reading this.

20 Q Read what you can.

21 A This isn't my writing, so . . . . .

22 Q Okay.

23 A He asked the nurse to apply fundal pressure.

24 Nurse refused to apply fundal pressure. Told him  
25 that she's not supposed to apply fundal pressure.

1           It's blacked off in my chart, but somebody  
2 applied fundal -- I presume I know who that is, if you  
3 want me to --

4           . . . applied fundal pressure. Dr. Mileikowsky  
5 attempted vacuum extraction times 10 at 55  
6 millimeters of mercury pressure for 50 to 60 seconds  
7 each time.

8           Q     How did you feel about that?

9           A     That's an awful lot of time to apply fundal  
10 pressure -- well, fundal pressure doesn't get applied.  
11 You can't -- legally, there's no defense in applying  
12 fundal pressure.

13           But as far as applying the vacuum 10 times,  
14 that's quite a few times. More than I would like to  
15 see.

16           Q     Would you have applied fundal pressure?

17           A     No.

18           Q     Do you think it would be appropriate for anyone  
19 to apply fundal pressure?

20           A     No.

21           Q     Is that your opinion, or is that the opinion of  
22 others?

23           A     There's literature written that there's no  
24 defense in fundal pressure. It can cause brachial  
25 plexus injuries. If there is a CPD involved --

1 Q All right. But that can happen if the cervix  
2 so thin --

3 A It hasn't been unheard of. It has happened.

4 Q So there could be a difference of, literally,  
5 nine centimeters different between what, at one point,  
6 one individual -- it can be a doctor --

7 A That just means that there was an error in the  
8 vaginal exam.

9 Q So errors may be more common, maybe, for pelvic  
10 exams between different individuals; and even the same  
11 individual may correct their own pelvic exam when we are  
12 asked to reverify their findings; is that --

13 A I'm unclear about the question.

14 Q That's okay. It's not that important.

15 You said something interesting, among other  
16 things, earlier, and I wrote it down. You said that  
17 legally it was not allowed to apply fundal pressure.  
18 Do you mean to say by that that attorneys determine how  
19 we practice medicine?

20 A No. By my -- the way I feel with fundal  
21 pressure is that there is no documentation that will  
22 protect you and that condones fundal pressure under any  
23 circumstances. And we are taught as nurses in legal  
24 conferences and by people who give legal conferences  
25 that it's undefendable, undefendable if you do use

1 fundal pressure to facilitate a delivery.

2 Q All right. Then educate us. Where was that  
3 conference or multiple conferences you went to?

4 A Any fetal monitoring class that I have gone to  
5 in the last three or four years -- I would say, really,  
6 three years.

7 Prior to the last three or four years, it was  
8 used a lot. I shouldn't say "a lot"; it was used  
9 frequently. And most legal conferences -- every legal  
10 conference I have gone to in the last three years does  
11 not advocate it.

12 Q I'm trying to understand what you characterize  
13 as a legal conference. Are those conferences led by  
14 attorneys?

15 THE HEARING OFFICER: I think she said  
16 "fetal."

17 THE WITNESS: Some are fetal monitor  
18 conferences. Some are legal conferences.

19 DR. MILEIKOWSKY: She said "legal."

20 THE WITNESS: I have been to both, and it has  
21 been discussed in both conferences. They have been  
22 given by expert fetal monitor nurses, physicians, and  
23 attorneys as well.

24 BY DR. MILEIKOWSKY:

25 Q Do you remember the name of the nurses who

1 gave that class?

2 A I have been to classes by Rhonda Harwell, who  
3 is --

4 Q How do you spell that?

5 A H-A-R-W-E-L-L.

6 Q And the first name?

7 A Rhonda, R-H-O-N-D-A.

8 Q Is that Rhonda that used to work with  
9 Dr. Schiffman --

10 A Yes.

11 Q -- that works in labor and delivery with us?

12 A Correct.

13 Q .Okay.

14 A She doesn't work here any longer. She just  
15 does legal conferences. She just educates.

16 Q The one with the pretty smile?

17 A Yes.

18 She in the past has worked here.

19 Q So who gives the series of lectures with her?  
20 You said physicians?

21 A I have been to conferences where she's had  
22 physicians as well, but she is usually the primary  
23 speaker.

24 Q And who are the other speakers? You said  
25 physicians and attorneys?

1 relevance of this question, how many nurses are part  
2 of --

3 THE HEARING OFFICER: Sustained. Next  
4 question.

5 DR. MILEIKOWSKY: All right.

6 Q How many such courses do you have to take per  
7 year?

8 DR. WULSFBERG: I object again. We've gone  
9 down this road. She's testified --

10 THE HEARING OFFICER: I think we're going  
11 pretty far afield. She's testified she has to take  
12 coursework. It sounds to me very similar to the  
13 continuing medical education course work that doctors  
14 take.

15 Next question.

16 DR. MILEIKOWSKY: All right.

17 Q In what circumstances were you told that  
18 fundal pressure is not advisable?

19 DR. WULSFBERG: He's asked this question and  
20 she's answered it. She said she's been in many  
21 conferences where it's been told that she can't.

22 THE HEARING OFFICER: The testimony was it's  
23 never advisable. That's what her testimony is.

24 BY DR. MILEIKOWSKY:

25 Q Is that your testimony --



1 A That's --

2 Q -- never?

3 A Yes. Right.

4 DR. WULSFBERG: She said that on three  
5 separate occasions.

6 THE HEARING OFFICER: Next question.

7 BY DR. MILEIKOWSKY:

8 Q Is there a policy at Tarzana Hospital for  
9 nurses regarding or anything for physicians in this  
10 hospital regarding such a policy?

11 A I'm sorry?

12 THE HEARING OFFICER: The question he's asking  
13 is: Is there a policy on fundal pressure at this  
14 hospital?

15 THE WITNESS: I believe there is. I don't  
16 have it in front of me, but I'm sure there is.

17 BY DR. MILEIKOWSKY:

18 Q Well, we can provide you the rules and  
19 regulations. It's right there in Volume 2.

20 A Where?

21 DR. WULSFBERG: I would like to ask if there  
22 is a question in Dr. Mileikowsky's mind whether she's  
23 incorrect, perhaps he can offer the area where there  
24 isn't this information, rather than having each witness  
25 demonstrate that Dr. Mileikowsky is not prepared in his

1 questioning again.

2 THE HEARING OFFICER: What are we referring to,  
3 the medical staff bylaws rules and regulations?

4 DR. MILEIKOWSKY: We're referring to the fact  
5 that Dr. Wulfsberg --

6 THE HEARING OFFICER: Wait. No. Let's not go  
7 into this.

8 DR. MILEIKOWSKY: Excuse me.

9 THE HEARING OFFICER: No. You're asking her  
10 to look at something --

11 DR. MILEIKOWSKY: I'm asking her to provide us  
12 the proof of what she's saying. She claims there's a  
13 rule. Please show it to us.

14 That's all. Simple.

15 THE HEARING OFFICER: Well, do you recall  
16 reading anywhere where the rule is regarding fundal  
17 pressure here at this hospital?

18 THE WITNESS: I don't know that we -- I don't  
19 know where the policy is. I'm sure there is a policy.  
20 I have been told by management that we are not to do  
21 fundal pressure.

22 THE HEARING OFFICER: All right. Next  
23 question.

24 BY DR. MILEIKOWSKY:

25 Q When you say "management," who is that?

1           A        Nursing supervisors, management, nursing  
2 management.

3           Q        And are they trained or knowledgeable in  
4 obstetrics and gynecology like you are?

5           A        Yes, I believe so.

6           Q        Who?

7           DR. WULFSBERG: She's answered this question.

8           DR. MILEIKOWSKY: Never asked it before.

9           DR. WULFSBERG: We're going down this road  
10 again.

11           THE HEARING OFFICER: If she recalls who told  
12 her, she can --

13           DR. MILEIKOWSKY: No.

14           THE HEARING OFFICER: Wait. If she recalls who  
15 told her, she may --

16           THE WITNESS: Rhonda Harwell has told me when  
17 she was in the capacity of our manager.

18 BY DR. MILEIKOWSKY:

19           Q        But she was never higher than you?

20           A        Yes, she was. She was my nurse manager.

21           Q        But she was never a supervisor, the night  
22 supervisor?

23           A        She was my nurse manager.

24           Q        But manager is not a supervisor.

25           DR. WULFSBERG: All right. This is enough.

1 Come on.

2 THE HEARING OFFICER: Let's not argue.

3 DR. MILEIKOWSKY: I'm not arguing. I'm trying  
4 to --

5 (Simultaneous colloquy.)

6 DR. WULFSBERG: He's arguing with the witness  
7 and trying to extract the answer to a question that she  
8 does not have.

9 THE HEARING OFFICER: Sustained.

10 Next question.

11 BY DR. MILEIKOWSKY:

12 Q Can you explain to us the structure that is  
13 above you when you are in labor and delivery, please.

14 DR. WULFSBERG: I object.

15 BY DR. MILEIKOWSKY:

16 Q Are you a charge nurse?

17 DR. WULFSBERG: We're going down the same --

18 THE WITNESS: Yes.

19 (Simultaneous colloquy.)

20 BY DR. MILEIKOWSKY:

21 Q How long have you been a charge nurse?

22 A Between 12 and 13 years.

23 Q What is the name of whoever is above you when  
24 you are a charge nurse?

25 A My nurse manager.